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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,623	02/18/2004	Takao Otsuka	Q79875	9092

7590 12/13/2004

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EXAMINER
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LOPEZ, MICHELLE

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/779,623

Applicant(s)

OTSUKA ET AL.

Examiner

Michelle Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7, 8, 10, 11 and 13 is/are rejected.
- 7) ☒ Claim(s) 9, 12 and 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This action is in response to the amendment filed on September 20, 2004.
2. New claim 16 has been added.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7-8, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Mueller (US 4,771,589).

Mueller'589 discloses an apparatus with an arraying and supplying station via a feeder not shown numerically (see col. 3, lines 65-68) for supplying the encased products "C" with the caps oriented in one direction, a sorting station at the vicinity of "12" for sorting the encased products "C" to a first feed path "14" in a first attitude "C", a second feed path "16" for feeding the encased products in a second attitude "C1", a packaging station "26" for packaging the encased products with a packaging sheet (see Fig. 2), and a movable presser (not shown numerically) at the vicinity of "130".

The first attitude is an attitude to array the encased products abreast, i.e. side by side, as shown in Figs. 1 and 2, wherein a first delivery unit "90" for feeding a first group "C" of the encased products with the caps oriented upwardly and a second delivery unit "70" for inverting a

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second group "C1" of the encased products to orient the caps downwardly, and feeding the encased products to discharge the encased products alternately via station "22".

The first and second delivery units "90,70" comprise respective first and second screws (see Fig. 1), wherein the second delivery unit "70" have guides (see Fig. 3) for reversing the encased products in co-action with the second screw "70"

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller'589 in view of Baranowski (US 5,407,057). Mueller'589 discloses the invention substantially as claimed. Mueller'589 does not disclose that the second feed path "16" has a knock-down mechanism for knocking down the encased products, wherein the encased products are arrayed tandem. However, Baranowski'057 teaches a knock-down mechanism (see Fig. 9) for the purpose of displaying the products "12" from a vertical attitude to an horizontal altitude, thereby providing a tandem configuration wherein the products "12" are placed one behind the other. In view of Baranowski'057, it would have been obvious to one having ordinary skills in the art to have provided Mueller's second feed path "16" with a knock-down mechanism in order to display the encased products from a vertical attitude to an horizontal altitude, thereby providing a tandem configuration wherein the encased products are placed one behind the other.

***Allowable Subject Matter***

5. Claims 9, 12, and 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments have been fully considered but they are not deemed persuasive.

With respect to claim 7, applicant contends that Mueller does not show or suggest wherein the encased products should be packed in a first attitude in which the encased products are alternately arrayed or packed in a second attitude in which the encased products are arrayed in one direction.

However, claim 7 merely discloses a first attitude and a second attitude different from said first attitude. Nowhere in claim 7 is described that in the first attitude the encased products are alternately arrayed and that in the second attitude the encased products are arrayed in one direction.

Therefore, Examiner asserts that Mueller shows a packaging station for packaging a given number of encased products arrayed in a first attitude or packaging a given number of the encased products arrayed in a second attitude different from said first attitude via first and second feed path 14,16 respectively.

Applicant also contends that Mueller does not state that the encased products are supplied with the caps oriented in one direction. However, as can be shown in Fig. 1, Mueller teaches upright containers "C" being supplied with the caps oriented in one direction.

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Applicant also contends that Mueller does not state that the sorting station selectively sorts the arrayed encased products. However, as the encased products are supplied by a filling machine arranged upstream to the sorting station at the vicinity of 12 (see col. 3; 65-68), and the sorting station sorts the encased products through to first and second conveyors, Examiner asserts that the sorting station selectively sorts the arrayed encased products supplied by the filling machine.

7. For the reasons, above the ground of rejection is deemed proper.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JOHN SIPOS  
PRIMARY EXAMINER